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REMARKS

Claims 1-3 are pending in this application. Claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Soomro. Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) over Soomro in view of Choi. Claims 1 and 2 are currently amended. Reconsideration and further examination are respectfully requested.

Claim 1 distinguishes Soomro because the program code is operable to transmit, on the selected channel, an indication of an intent to use that selected channel. Soomro is primarily directed at deciding **when** to switch to a different channel, rather than the actual selection of that different channel. For example, in para. [0037] Soomro teaches that the DFS count is adjusted depending on conditions, i.e., the time remaining to changing channel. The only reference to channel selection Applicant has found in Soomro is illustrated by para. [0039], which simply states that a STA performs "channel measurements." The Office cites para. [0022] as teaching interference mitigation in channel selection, but the passage merely cites regulatory requirements and provides no implementation details. Further, as taught by Soomro any communications about the new channel are made within the BSS **on the old channel**. Despite these gaps in the argument based on Soomro, Applicant has amended claim 1 to emphasize that **prior to utilizing the selected channel for normal communications**, the program code is operable to transmit an indication, **on the selected channel**, of an intent to utilize that channel. One advantage of this technique is that properly configured devices can respond to the channel claim transmission, e.g., by objecting. Withdrawal of the rejection of claim 1 is therefore requested.

Claim 2 distinguishes the combination of Soomro and Choi because, in addition to transmitting the channel claim message as described above, the program code is responsive to channel claim messages transmitted by other devices. Choi, like Soomro, fails to teach use of a

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channel claim message because the channel switch announcement (300) is transmitted on the old channel rather than the new channel. This is not surprising because this Choi technique, which is well known in the art, is intended to coordinate the channel change among members of the BSS. In contrast, the presently claimed invention transmits a message on the new channel in order to mitigate problems with devices which are not part of the migrating BSS. Withdrawal of the rejection of claim 2 is therefore requested.

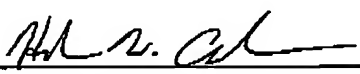
Claim 3 is a dependent claim which further distinguishes the invention, and which is allowable for the same reasons as claim 2. Withdrawal of the rejection of claim 2 is therefore also requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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